A G E N D A

POCOMOKE CITY MAYOR AND COUNCIL MEETING
7:30 p.m., Monday, January 4, 2016
City Hall

1. Call to Order and Pledge of Allegiance.

2. Review and approval of minutes from meeting of December 7, 2015.

3. Review and approval of bills to be paid.

4. Public Hearing and Second reading of Ordinance No. 424 adding "Chapter 70-Purchasing" to Pocomoke City Code.

5. Mr. Terrence Snowden & Yvette Snowden to address Council regarding youth center.

6. A letter from a citizen to commend "Santa Claus", Billy Young.

7. Appoint members of the City's Board of Elections Supervisors for two-year term beginning February 2016.

8. Police Chief Harden to give update on Police Department.

9. Introduce and First Reading of Resolution #490 to amend Section C-36 of the Charter to allow "Write-In Candidates"

Comments from the Audience
Mayor and Council items.
Adjourn

AGENDAS ARE SUBJECT TO CHANGE UNTIL THE TIME OF CONVENING.

December 7, 2015

The regular meeting of the Pocomoke City Mayor and Council was held in the Council Chambers at City Hall on Monday, December 7, 2015. The meeting was called to order at 7:30 P.M.

Present: Mayor Bruce Morrison
Council Members: Diane Downing, Brian Hirshman, Esther Troast, George Tasker, Dale Trotter
City Manager/City Attorney: Ernie Crofoot
City Clerk: Carol L. Sullivan

Review Minutes:

In a motion (Trotter, Troast passed) to approve the minutes of the November 16, 2015 meetings as presented.

Review Bills:

In a motion (Tasker, Trotter passed) the bills presented to be paid. (Copy of bill list attached to original minutes).

Recognition of Parade Committee Chairman Mike Shannon and volunteers for another successful Christmas Parade:

Mayor Morrison presented Mike Shannon a plaque for another successful Christmas Parade. He thanked Mike and all the volunteers for making this event so successful.

Mr. Shannon thanked the Mayor and Council for all the support the City gives him and the parade committee. He also stated how stressful this past Sunday and Monday were as the weather did not cooperate this year. By re-scheduling they lost 20 units in the parade. He also thanked the community for coming out and supporting the parade each year.

City Manager-employee Contract-William Harden-Chief of Police:

City Manager Crofoot stated that everyone had a copy of the contract. He stated that it was similar to his contract and he encouraged the Council to approve it.

In a motion (Hirshman, Trotter passed) to approve the Chief of Police contract. Downing abstained.

City Manager to discuss letter to septic haulers:

City Manager Crofoot stated that a letter will be mailed to the septic haulers informing them of the new hours at the Clarke Avenue Main Pump Station. The letter explains that changes were being made due to haulers dumping grease and leaving debris in the basket. Also all delivery/disposal sheets are to be sent to the City within three days of dumping; the sheets must be completed with time, date, location where it was pumped from, the company's name and the identification of the truck and driver must be shown.

Letter to MDIA, thanking them for quick response:

City Manager Crofoot stated that he sent a letter to Middle Department Inspection Agency, for their quick response that they provided on December 1st to inspect the new meter and connections for the downtown street lamps. He stated that they were at the locations within a half hour to inspect; and the lights were on for the Christmas Parade.

City manager-grant writing and administering proposal-Valerie Mann:

City Manager Crofoot proposed to hire Valerie Mann as the City's grant writer and to administer the grants. He stated that it was not a reflection on anybody's work; but it does take a lot of time to search for grants and to administer them, as all the individuals handling this at the current time has other duties. This will help them by allowing more time for their full-time duties. Ms. Mann has experience in the area of searching for grants to a specific project and he feels that it would not take away from other duties that employees are doing full-time.

In a motion (Tasker, Troast passed) to hire Ms. Valerie Mann as the City's grant writer and to administer the grants.

Introduction and First reading of Ordinance No. 423 adding "Chapter 70-Purchasing" to Pocomoke City Code:

Mayor Morrison read for the record: Below is a summary of Ordinance No. 423:

The purpose of this chapter is to provide the taxpayers of Pocomoke City with an economical and efficient method of public purchasing. The chapter will promote maximum competition without compromising quality; provide fairness in selection of vendors; assure quality goods and services at the best price; and provide clear, accurate, and uniform information on goods, services or construction to be purchased. This will be accomplished by implementing standardized regulations and procedures under a uniform purchasing system.

City Manager to discuss donation of ambulance A-2 to Newark Volunteer Fire Company:

City Manager Crofoot stated that Newark Volunteer Fire Company was interested in acquiring our ambulance A-2. This ambulance was replaced in July and we do not have a need for it. This is a small fire company and they don't have funds to purchase a new ambulance. This would be a second ambulance for them.

Councilman Tasker asked if they had a pumper truck that the City could get for a trade, as the pumper truck currently at the Fairgrounds needs to be replace.

In a motion (Tasker, Trotter passed) to donate the ambulance to Newark Volunteer Fire Company.

Delmarva Discovery Center to request to apply for Maryland Bond in the amount of $170,000 for the Touch Tank:

Ms. Stacey Weisner, asked permission to submit a request for $170,00 in capital funding from the Governor's budget through the Department of Budget and Management, for a Touch Tank. She asked the City to provide a letter stating she has permission to speak on the City's behalf. She stated that she would like to request letters to apply for a State Bond Bill in the

amount of $170,000; a letter to submit an "Intent to Apply" and application to the Maryland Heritage Area Authority for $50,000 and a letter to apply for CDBG funds to make the building more handicap accessible.

In a motion (Trotter, Downing passed) to support the request of Delmarva Discovery Center in applying for grants on the City's behalf for Delmarva Discovery Center.

Councilman Tasker stated that Barbara Tull was selected for the "Jefferson Award" and that the show would air on December 20, 2015 on WBOC.

Comments from Council:

Councilman Tasker stated that the potholes on Lynnhaven Drive needed more than putting gravel in them. The gravel comes out of the potholes as the cars run over them.

Councilman Trotter stated that he has noticed several street lights being out in town. In the past the police officer would make a list and give it to Paula to have the lights repaired. He would like to see this happen again.

Mayor Morrison stated that the City would hold its annual Christmas Breakfast for employees on December 16 at the Community Center at 8:00 A.M.

The meeting for December 21 has been cancelled.

Comments from Audience:

Mr. Mike Shannon thanked the Mayor and Council for all the City does in preparing for the Christmas Parade and other events that he is involved with. He stated that the Public Works Department does a great job in preparing for the events.

Following a motion by Councilman Trotter and seconded by Councilman Hirshman the Council voted to meet in a closed session at 8:24 P.M. in the Council Chambers. Present were Mayor Morrison, Councilman Hirshman, Councilman Trotter, Councilman Tasker, Councilwoman Downing, Councilwoman Troast, City Manager/City Attorney Crofoot, and City Clerk Carol Sullivan. The Mayor and Council discussed employee issues as permitted under the provisions of Section 3-305 (b), (1) of the General Provisions Annotated Code of Maryland the meeting adjourned at 8:45 PM.

Approved: _____

Carol L. Sullivan
City Clerk

THE MAYOR AND CITY COUNCIL OF POCOMOKE CITY

ORDINANCE NO. 424

AN ORDINANCE OF THE MAYOR AND COUNCIL OF POCOMOKE CITY ORDAINNG AND ADDING "CHAPTER 70 – PURCHASING" TO THE POCOMOKE CITY CODE

INTRODUCED BY: Mayor Bruce Morrison on behalf of the City Council

AN ACT to add Chapter 70 Purchasing to the Pocomoke City Code

The purpose of this chapter is to provide the taxpayers of Pocomoke City with an economical and efficient method of public purchasing. The chapter will promote maximum competition without compromising quality; provide fairness in selection of vendors; assure quality goods and services at the best price; and provide clear, accurate, and uniform information on goods, services or construction to be purchased. This will be accomplished by implementing standardized regulations and procedures under a uniform purchasing system.

MAYOR AND CITY COUNCIL OF POCOMOKE CITY

_____
Bruce Morrison

INTRODUCED, read first time, December 7, 2015 ordered posted and public hearing scheduled on the___ day _____ at ____ p.m. in the City Council Chambers, City Hall, 101 Clarke Avenue, Pocomoke City, Maryland 21851

By Order of:

_____
Carol L. Sullivan, City Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held _____ . Reported favorably with amendments; read second time and ordered to be considered on _____ .

All material in this ordinance is new material. Amendments to this ordinance prior to enactment will be show in ***BOLD ALL CAPS ITALICS*** for additions, and ~~strikethrough~~ for deletions.

Section 1. ***Be it hereby enacted by the City Council of Pocomoke City that a new Chapter 70 – Purchasing be and it is hereby added to the Pocomoke City Code, as follows:***

CHAPTER 70. PURCHASING

§ 70-1. Purpose.
§ 70-2. Definitions.
§ 70-3. General matters.
§ 70-4. Purchasing Department created; Director of Purchasing established; City Manager designated as Director of Purchasing; powers and duties.
§ 70-5. General regulations and procedures.
§ 70-6. Emergency purchases.
§ 70-7. Special purchases.
§ 70-8. Preparation and approval of additional regulatory procedures.
§ 70-9. Purchasing Cards.
§ 70-10. Debarment process.
§ 70-11. Conforming changes.

§ 70-1. Purpose.

The purpose of this chapter is to provide the taxpayers of Pocomoke City with an economical and efficient method of public purchasing. The chapter will promote maximum competition without compromising quality; provide fairness in selection of Vendors; assure quality goods and services at the best price; and provide clear, accurate and uniform information on goods, services or construction to be purchased. This will be accomplished by implementing standardized regulations and procedures under a uniform purchasing system.

§ 70-2. Definitions.

As used in this chapter, the following terms shall be defined as follows:

APPLICABLE LAW - Any federal, State, or local law, ordinance, statute, regulation, rule or procedure, as any of the same may be applicable to a specific subject, matter, or item, in the order of priority relevant or applicable to such matter, as the same shall from time to time be in force or effect.

ADDENDUM - A written change to an Invitation for Bid.

ALTERNATE BID - A dollar amount to be added to or subtracted from the base bid price. The Director of Purchasing may request Alternate Bid prices in order to compare various options that may be in the City's best interest.

AWARD - A determination, after review, that a certain Vendor will be given the contract.

BID - A price submitted by a BIDDER for a product, service, or construction.

BID BOND - A money guaranty, executed by a surety company authorized to do business in this state, or the equivalent in cash, cashier's check, letter of credit, certified funds, or other security satisfactory to the Director of Purchasing, in such amount as he/she shall deem adequate for the protection of the City, submitted by a Bidder, payable to, or issued to the benefit of, Pocomoke City, to guaranty that the Bidder shall contract to fulfill the terms of his Bid.

BID INVITATION – A packet of material or information provided to prospective Bidders through an Invitation to Bid, Request for Proposal, or other means containing the material terms and specifications.

BIDDER - Any Person who submits a Quote, Proposal or Bid.

BLANKET PURCHASE ORDER - An open purchase order effective for a stated period of time and not to exceed stated dollar limits to which miscellaneous individual similar purchases can be charged.

CITY – Pocomoke City, Maryland.

CITY MANAGER – The city manager of Pocomoke City, appointed by the City Council of Pocomoke City in accordance with Title V of the Charter of Pocomoke CIty.

CITY COUNCIL – The City Council of Pocomoke City.

CONDITIONAL BID - A Bid submitted by a Bidder on which the Bidder has made certain conditions for acceptance that are contrary to the conditions of the IFB or that were not requested in the IFB.

CONTRACT – A written agreement covering the purchasing or furnishing of a product, a service, or construction.

CONTRACTOR – Any person who has a contract with the City.

DEPARTMENT - Any functional division, agency, or department of the City.

DEPARTMENT HEAD - The employee who is in charge of a Department.

DIRECTOR OF PURCHASING - The individual designated pursuant to this chapter as being generally responsible for the day-to-day purchasing and procurement functions of the City. Unless and until an individual is appointed by the City Manager to such capacity, the City Manage shall serve as the Director of Purchasing.

EMERGENCY - A sudden and unexpected occurrence or condition which the City Council or a Department Head reasonably could not foresee, posing an actual and immediate threat to the continuance of an essential normal operation of a Department or the need to cope with a public exigent condition.

FORCE MAJEURE – Events or conditions including, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe, beyond a person's control.

FORMAL BID - A Sealed Bid for goods, services, or construction exceeding $25,000.00.

GENERAL TERMS AND CONDITIONS – The terms and conditions, in addition to applicable law, set by the Director of Purchasing as approved by the City Attorney, applicable to all purchases and contracts on behalf of the City.

INVITATION FOR BIDS OR REQUEST FOR PROPOSALS - A document or collection of documents or materials constituting a solicitation or request for Proposals or Bids. In certain contexts, the terms may be used interchangeably.

IFB or RFP - An Invitation for Bids or a Request for Proposals. In certain contexts, the terms may be used interchangeably.

POCOMOKE CITY GOVERNMENT - The government of Pocomoke City and all Departments under its authority.

LOCAL TIME – Eastern Standard Time or Eastern Daylight Savings Time, as the case may be.

LOWEST RESPONSIVE AND RESPONSIBLE BIDDER - The Responsible and Responsive Bidder who has submitted the lowest price.

MATERIALS – Materials, equipment, tools, supplies, or any other items of personal property, excluding real property and electric, gas, water, telephone, or similar utilities.

MINOR IRREGULARITY – An irregularity in a Bid or Proposal that is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation of a Bid or Proposal from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the other Bidders or to the purchasing or using Department.

PAYMENT BOND - A money guaranty submitted by a successful Bidder and made payable to, or issued to the benefit of, the City, executed by a surety company authorized to do business in this state, or the equivalent in cash, cashier's check, letter of credit, certified funds, or other security satisfactory to the Director of Purchasing and the City Attorney for the protection of all Persons supplying labor and materials, including lessors of equipment to the extent of the fair rental value thereof, to the contractor or his subcontractor in the prosecution of the work provided for in the contract for the use of each such Person. Any contractor, prior to receiving a progress or final payment under a contract covered hereunder, shall certify, in writing, that he has made payment from proceeds of prior payments and that he will make timely payments from the proceeds of the progress or final payment then due him to his subcontractors and suppliers in accordance with his contractual arrangements with them.

PERFORMANCE BOND - A money guaranty, executed by a surety company authorized to do business in this state, or the equivalent in cash, cashier's check, letter of credit, certified funds, or

other security satisfactory to the Director of Purchasing and the City Attorney in such amount as deemed adequate for the protection of the City, submitted by the successful Bidder and made payable to or issued to the benefit of Pocomoke City, which guaranties that the successful Bidder will execute the terms of the contract with the City.

PERSON - An individual, corporation, partnership of any kind, limited liability company of any kind, trust, unincorporated association, unincorporated business, or any other form of business or entity of any kind, whether or not recognized under the laws of the State of Maryland.

PROFESSIONAL SERVICES – Services which generally require specialized education, training, or knowledge and involve intellectual skills including, but not limited to, engineering, environmental engineering, environmental monitoring, geology, architecture, archaeology, architectural historians, historians, educational consulting, management, medicine, teaching, finance, accounting, auditing, and construction management.

PROPOSAL - The written submission of a firm price other than by Sealed Bid.

PURCHASING AGENT - Any individual designated a Purchasing Agent pursuant to this chapter.

PURCHASING CARD - A credit card, debit card, or other similar authority enabling a Purchasing Agent, Department Head, or other authorized individual to purchase materials, supplies, or services on and for the City's account, as provided for in this chapter.

QUOTE - The submission of a price; which submission may be oral or written as provided for herein..

RESPONSIBLE – Meeting or appearing to meet all required qualifications of an IFB or RFP, and being or appearing to be capable of carrying out the terms of the contract.

RESPONSIVE - Having submitted all specifications, documents, information and other material required pursuant to an IFB or RFP.

SEALED BID - The confidential submission of a price that will be opened and read aloud at an announced date and time, at which Bidders and the general public may attend.

TIE BID - Responsive Bids from Responsible Bidders that are identical in price, terms and conditions and which meet all the requirements and evaluation criteria set forth in an IFB or RFP
.

VENDOR - A supplier of goods, services or construction.

§ 70-3. General matters.

A. Authority. Pursuant to the laws of the State of Maryland and pertinent public local law, the City Council hereby enacts this chapter.

B. Applicability of provisions. All Departments and the employees of all of them shall comply with and be subject to the provisions of this chapter and any subsequent rules and regulations adopted by resolution by the City Council, or with other procedures approved by the City Council, for the purchase or contract of goods, services, or construction.

C. Compliance with all applicable state and federal regulations required. Wherever applicable, all requirements set forth in state and federal grant, loan, and assistance programs and contracts shall be satisfied. The requirement that provides the greater restriction or highest standards shall prevail.

D. Appropriation and certification of funds. The City Council, through the City's annual budget process, appropriates funds for all purchases. The Director of Purchasing, or the appropriate Department Head, as the case may be, will certify that funds have been appropriated before purchases are authorized.

§ 70-4. Department of Purchasing created; Director of Purchasing established; City Manager designated as Director of Purchasing; powers and duties.

A. Department established. There is a Department of Purchasing established in the governmental structure of Pocomoke City, which Department shall be directed by a Director of Purchasing who shall serve at the discretion of the City Manager and shall be an at-will employee and a Department Head in accordance with the Personnel Regulations of Pocomoke City as from time to time in place. The Department shall have such responsibilities, budget, employees, and duties as the City Manager shall from time to determine, subject to the budgetary approval of the City Council. The Department shall be responsible generally for the purchasing and procurement functions of the City. Until such time as the City Council shall provide for the organizational structure, positions, and budget separately, the functions and structure of the Department of Purchasing shall be subsumed within and be a part of the functions of the City Manager.

B. The Director of Purchasing shall have the following duties:

(1) Implement or supervise the implementation of the provisions of this chapter and any subsequent regulations for the purpose of purchasing or contracting for goods, services or construction.

(2) Ensure that products or services are provided according to the contract terms.

(3) Supervise the Bid process.

(4) Maintain inventory control of City property and assets.

(5) Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter.

(6) Prepare and maintain a Vendors catalog file.

(7) Declare a Vendor or Person who defaults on his/her quotations, contracts, or obligations, or which otherwise has a record of poor or untimely performance, as a "not Responsible

Bidder" and disqualify or debar such Vendors or Persons from receiving any business from the City for up to five years.

(8) Determine if prequalification of Bidders is appropriate and set forth the criteria for prequalification.

(9) Give periodic post-purchase public notice of purchases which exceed $25,000.00, or as otherwise may be required by law. Such notice may be accomplished by posting on the City's Internet website, posting at the location of the City offices on a public bulletin or notice board, or by any other means consistently employed by the City to advise City residents of Mayor and City Council meeting agendas.

(10) Prepare specifications for goods, services, and construction.

(11) Schedule and hold prebid conferences.

(12) Prepare and distribute addendums to IFBs or RFPs.

(13) Ensure that all necessary documentation is maintained.

(14) Prepare and maintain a purchasing manual to include a copy of this chapter, adopted forms, laws, regulations, and other appropriate material.

C. The Director of Purchasing may delegate part or all of his powers and duties to designated Purchasing Agents or other City employees pursuant to this chapter.

§ 70-5. General regulations and procedures.

The regulations and procedures included in this section shall control all purchases made with public funds, except as otherwise permitted or directed under §§ **70-6** and **70-7** of this chapter.

A. Unauthorized purchases.

(1) Except as otherwise provided in this chapter, it shall be unlawful for any City official or employee to purchase, contract for, or order goods, services, or construction for which funds have not been appropriated by the City Council..

(2) Liability for an unauthorized purchase may be assumed by the City Council upon a finding by them, on the record, that:

(a) The purchaser made the purchase in the good faith belief that it was authorized.

(b) The goods or services purchased are of use and value to the City.

B. Non-Appropriation. Anything in this chapter to the contrary notwithstanding, no contract for goods, services, or construction shall be entered into by or on behalf of the City, the payment obligations of which contract extend beyond the fiscal year in which the contract is executed,

unless the contract contains a non-appropriations clause allowing the City to terminate the contract if sufficient funds for that contract are not legally appropriated by the City.

C. Governing Law. All contracts for goods, services, or construction entered into by or on behalf of the City shall be subject to and interpreted in accordance with the laws of the State of Maryland, without regards to its conflicts of laws principles. Jurisdiction and venue shall lie only in State or federal courts located in the geographic limits of the State of Maryland.

D. Mistakes in purchasing. Mistakes made by City officials or employees during the purchasing process which do not substantially affect the purchase, but which are contrary to the provisions of this chapter may be waived by the City Manager, or by the City Council if the value or cost of the mistake exceeds $10,000.00, at their discretion. Mistakes shall not include unauthorized purchases.

E. Purchasing authorizations, amounts and conditions limited. The following City employees are authorized to encumber or commit public funds in the amounts and under the conditions stated:

(1) Department Head. Subject to any limitations contained in any purchasing authorizations resolution as may be from time to time in force and effect, a Department Head may authorize purchases not to exceed $5,000 for any single service, item or group of similar items purchased. The Department Head, with approval of the Director of Purchasing, may delegate authority, not to exceed $1,500, to subordinates for any single service, item or group of similar items purchased. The Department Head shall provide the Director of Purchasing with a list of personnel who have been delegated the authorization to make purchases and the maximum amount delegated.

(2) Director of Purchasing or designee. The Director of Purchasing or his designee may authorize all purchases not to exceed $25,000.00. Delegation of purchasing approval by the Director of Purchasing shall not relieve the Director of Purchasing for responsibility therefore.

(3) City Council. The City Council must approve all purchases exceeding $25,000.00 but may delegate special authority to the Director of Purchasing to make a specific purchase which exceeds $25,000.00.

(4) The City Council, the Director of Purchasing, Purchasing Agents and the Department Heads and authorized designees are the only individuals possessing legally binding purchasing authority, except as otherwise provided herein.

F. Bid regulations and procedures.

(1) Competitive Bids.

(a) General requirements. All purchases of and contracts for supplies and services and all sales of personal property which have become obsolete and unusable, except as specifically provided herein, shall be based, whenever possible, on a competitive basis.

(b) Determination of Bid procedure.

[1] Purchases exceeding $500 for a single item or exceeding in the aggregate $1,500 for multiple items (none of which exceeds single-item cost of $500) but, in either case, not exceeding $5,000 will require at least three informal price Quotes, usually by telephone, to ensure that the most responsive purchase is made and at the best price, which is also in the best interest of the City. These may require written confirmation. The Quotes, not merely the accepted Quote, must be recorded by City personnel obtaining the Quote and attached to the payment request or purchase order for the items purchased.

[2] For purchases exceeding $5,000 but not exceeding $15,000, at least three price Quotes shall be obtained in writing from Bidders or Vendors and must be maintained by the recipient and attached to the payment request or purchase order for the items purchased. Written price Quotes shall be submitted to the Director of Purchasing for processing and approval.

[3] For purchases exceeding $15,000 but not exceeding $25,000, prices will be obtained by written Proposals, submitted directly to the Director of Purchasing; however, the City Council reserves the right to require Sealed Bids. After review, the Director of Purchasing will record the Proposals and take appropriate action in accordance with the provisions of this chapter.

[4] Purchases over $25,000 shall be by Sealed Formal Bids submitted to the Director of Purchasing and securely held until the time of Bid opening. Bids will be opened and read aloud in an open public meeting as stated in the IFB or RFP. At the time of Bid opening, the Director of Purchasing will record the Bids.

[5] The Director of Purchasing shall be responsible for approving the date, time, and location of, and any process relating to, the opening of written Proposals and Sealed Formal Bids submitted pursuant to Subsection **F(1)(b)[3]** and **[4]** above, and shall otherwise determine or approve the process relating thereto.

(2) Bid Bonds. The Director of Purchasing may, at his discretion, require Bid Bonds for Proposals and Bids.

(a) Form. Bid Bonds may be in the form of cash, cashier's check, certified check, letter of credit, or other approved bond form executed by an approved surety company in an amount set by the Director of Purchasing and in a form acceptable to the Director of Purchasing. The Director of Purchasing has the right to reject any Bid that does not comply with this section.

(b) Return of bonds. Bid Bonds will be returned to all Bidders upon execution of the contract by the successful Bidder or as deemed appropriate by the Director of Purchasing.

(3) Performance and Payment Bonds. The Director of Purchasing, at his discretion, may require Performance and Payment Bonds.

(a) Form. Performance and Payment Bonds will be in the form of cash, certified check, cashier's check, letter of credit, or approved bond forms, other security acceptable to the Director of Purchasing executed by an approved surety company.

(b) Amount of bond. Whenever a Performance or Payment Bond is required, the amount of the bond shall be determined by the Director of Purchasing but shall be not exceed 125% of the Bid price.

(4) Modification or withdrawal of Bids.

(a) Procedure. Bids may be modified or withdrawn by written notice received by the Director of Purchasing before the time and date set for Bid opening.

(b) Disposition of Bid Bond. If a Bid is withdrawn in accordance with this regulation, the Bid Bond, if any, shall be returned to the Bidder.

(5) Late Bids, withdrawals and modifications.

(a) Policy. Any Bid, request for withdrawal, or request for modification received at the place designated in the IFB after the time and date set for receipt and opening of Bids is late.

(b) Consideration. A late Bid may not be considered under any circumstances and will be returned to the Bidder unopened, by certified mail, to the Bidder's last known address. Late modifications and late withdrawals may be considered by the City Council and allowed if in the best interest of the City.

(6) Mistake in Bids.

(a) Criteria for correction or withdrawal. If a mistake is alleged by a Bidder, the Director of Purchasing may allow correction or withdrawal in accordance with the following criteria:

[1] If both the mistake and the intended correction provision are evident, correction, but not withdrawal, may be allowed.

[2] If the mistake, but not the intended correct provision, is evident, then withdrawal may be allowed, but correction may be allowed only if:

[a] The correction is the most favorable to the City.

[b] The Bidder demonstrates by clear and convincing evidence that the proposed correction was the intended provision.

[c] Correction is deemed by the City Council or the Director of Purchasing, as applicable, to be in the best interest of the City.

[d] The City Attorney renders an opinion that a decision to allow correction would more likely than not be upheld upon court challenge.

(b) Correction after Award. Mistakes may not be corrected after Award of the contract, and changes in price are not permitted unless the Director of Purchasing determines it would be in the best interest of the City.

(c) Written report required. When a Bid is corrected or withdrawn or correction or withdrawal is denied, the Director of Purchasing shall prepare a written report showing all actions taken in accordance with this chapter.

(7) Evaluation and Award.

(a) General policy. The contract will be Awarded to the Lowest Responsive and Responsible Bidder whose Bid meets the following requirements and such other requirements as may be set forth in the IFB and/or other solicitation materials:

[1] The ability, capacity, organization, facilities and skill of the Bidder to perform the contract or provide the service required.

[2] The ability of the Bidder to perform the contract or provide the service promptly or within the time specified without delay or interference.

[3] The character, integrity, reputation, judgment, experience, and efficiency of the Bidder.

[4] The Bidder's quality of performance of previous contracts or services.

[5] The Bidder's previous and current compliance with laws and ordinances relating to the type of contract or service.

[6] Whether the Bidder is in arrears to the City on any debt or contract.

[7] Whether the Bidder is in default on any surety to the City.

[8] Whether the Bidder is delinquent as to any taxes or assessments.

[9] The sufficiency of the financial resources and ability of the Bidder to perform the contract or provide the service.

[10] The quality, availability, and adaptability of the supplies or contractual services to the particular use required.

[11] The ability of the Bidder to provide future maintenance and service for the use of the subject of the contract.

[12] Any other information relevant to the decision to Award the contract.

[13] Whether the Bidder has been debarred by another governmental jurisdiction, the State of Maryland, or the United States. Debarment within three (3) years prior to a Bid opening or other selection of a Vendor or Contractor shall automatically eliminate the debarred Person. Debarments more than three years prior may render the Person ineligible, based upon the determination of the Director of Purchasing on the advice of the City Attorney.

(b) Determination of lowest Bid; additional restrictions.

[1] Bids shall be evaluated to determine which Responsible and Responsive Bidder offers the lowest cost to the City in accordance with the evaluation criteria set forth in § **70-5 F(7)(a)[1]** through **[12]** above. The City Council reserve the right to make the Award in a manner deemed to be in the best interest of the City.

[2] Nothing in this chapter shall be deemed to permit an Award to a Bidder submitting a higher quality item than that designated in the Invitation for Bids if that Bidder is not also the lowest Bidder.

(c) Award. Upon determination of the Lowest Responsive and Responsible Bidder, the Director of Purchasing may Award the contract to that Bidder in accordance with the provisions of this chapter.

(8) Tie Bids. In the instance of low Tie Bids from otherwise Responsive Responsible Bidders, where all other factors are equal, the Award shall be made by the drawing of lots or straws. The Director of Purchasing and the City Clerk shall be present at the drawing. Bidders will be invited. The results shall be recorded on the Bid tabulation sheet by the Director of Purchasing.

(9) Single Bids. If only one Bid from a Responsive Responsible Bidder is received in response to an IFB, an Award may be made to the such Bidder in accordance with the provisions of this chapter if the price submitted is fair and reasonable and other prospective Bidders had reasonable opportunity to respond; otherwise, the Bid may be rejected and new Bids may be solicited or the proposed purchase may be canceled or, if the Director of Purchasing determines, in writing, that the need for the supply or service continues but that the price of the one Bid is not fair and reasonable and there is not time for re-solicitation or re-solicitation would likely be futile, the purchase may then be conducted under § **70-6C** of this chapter.

(10) Alternate and Conditional Bids. Alternate and Conditional Bids unless specifically authorized in the IFB shall not be considered.

(11) Rejection of Bids and Proposals. Any Bid or Proposal may be rejected when it is deemed by the City Council, in their sole discretion, to be in the best interest of the City to do so. Reasons for rejection may include, but are not limited to, the following:

(a) The Vendor that submitted the Bid or Proposal is not a Responsible Bidder.

(b) The Bid or Proposal does not conform to the requirements of the solicitation.

(c) Unreasonable price.

(d) The Bidder is debarred or ineligible.

(e) Any factor described in § **70-5 F(7)(a)[1]** through **[13]**.

(f) Any other factor deemed justifiable by the City Council for the benefit or protection of the City.

(12) Rejection of Bids. The City Council reserve the right to reject any or all Bids as deemed appropriate in their sole discretion and as may be in the best interest of the City.

(13) The Director of Purchasing may waive a Minor Irregularity in a Bid or Proposal if in the best interest of the City.

E. Blanket Purchase Orders.

(1) Purpose. The purpose of a Blanket Purchase Order is to provide a Department with a simplified means of purchasing miscellaneous incidental items which are similar in nature.

(2) Criteria. The following criteria shall be followed:

(a) The Blanket Purchase Order must be authorized and signed by the Director of Purchasing.

(b) The total amount purchased on an individual purchase order shall not exceed $1,000.

(c) The total cost of any single item purchased shall not exceed $250.

(d) The Blanket Purchase Order shall be issued for a period not to exceed the lesser of one year or the period of time for which Blanket Purchase Order pricing has been contracted for by the City.

F. Gifts and rebates. The Director of Purchasing, Purchasing Agents, Department Heads, and every official and employee of the City are expressly prohibited from accepting, directly or indirectly,

from any Person to which any purchase or contract is or might be Awarded any rebate, gift, money or anything of value whatsoever, except where given for the use or benefit of the City, or except as otherwise allowed under the City's Code of Ethics.

G. Prohibition against subdivision. No contract or purchase shall be subdivided to avoid the requirements of this chapter.

H. Cooperative purchases. The Director of Purchasing shall have the authority to enter into contracts on behalf of the City with other units of government, including, but not limited to, the State of Maryland, other Maryland counties and municipalities, and neighboring jurisdictions in states surrounding Maryland in cooperative purchasing plans when the best interests of the City would be served thereby. This authority includes the authority to purchase from suppliers or contractors on the same terms and conditions as contracts already entered into by such jurisdictions whether or not such contracts have specifically provided for such cooperative or extended purchasing. In all such instances of cooperative purchasing, the Director of Purchasing shall establish to his reasonable satisfaction, after consultation with the City Attorney, that the Award of such contracts and the process employed therein is reasonably approximate to that usually employed by the City or otherwise has appropriate indicia of competitiveness and opportunity to Bid or participate.

I. Inspection and testing. The Director of Purchasing may provide for the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract. Such inspection may be performed by the Director of Purchasing, Purchasing Agents, Department Heads, or individuals to whom such duties may be delegated.

J. Unless otherwise directed by the Director of Purchasing, all material relevant to purchases made pursuant to this chapter shall be maintained by the Department at whose direction or upon whose behalf a contract for goods or services is made. Notwithstanding the foregoing, all documentation required to be submitted to the Director of Purchasing or to the Finance Director shall be so submitted with originals or copies, as the case may be, to be retained by such Department, including, but not limited to, titles, registrations, warranties, and instructional and operating manuals. Wherever possible, such materials shall be referenced to the applicable item or service and the contract relating thereto.

K. Bid protests. Any unsuccessful Bidder may file a protest of any competitively bid procurement under this chapter by filing a written protest to the Director of Purchasing as outlined in this § **70-5K**.

(1) The written protest shall be delivered to the City at City Hall, addressed to the Director of Purchasing, not later the seven days from the determination by the appropriate City officer or employee of the award being protested. "Delivered to" shall mean the actual receipt by the City.

(2) The written protest must include:

(a) The name, address, and telephone number of the protester;

(b) An identification of the solicitation or contract about which the protest concerns, including the Bid, RFP, solicitation, or other identifying number;

(c) A detailed statement of the legal and factual grounds supporting the protest, including copies of relevant documents; and

(d) A statement as to the relief requested.

(3) The City will initiate an investigation and issue a written determination in a timely manner within 10 days of receipt of the protest. In the City's discretion, an informal hearing may be conducted by the Director of Purchasing or his designee prior to the determination. Unless exigent circumstances exist, as determined by the Director of Purchasing, no Award may be made if there is a timely submitted, unresolved outstanding protest.

§ 70-6. Emergency purchases.

A. Purpose. This section is established for the purchase of supplies, materials, services, maintenance and/or construction when normal purchase procedures cannot be used because of an Emergency.

B. Scope. Only those purchases necessary to meet the Emergency are allowed under this section. n.

C. Types of Emergencies. Emergencies will fall into one of the following categories:

(1) Immediate Emergency: an Emergency requiring an immediate response.

(2) Non-immediate Emergency: an Emergency requiring a prompt response but which response can be delayed until the next scheduled meeting of the City Council.

D. Procedures.

(1) Declaration of Emergency. The Department Head of the Department, having general jurisdiction with respect to the particular Emergency, or next senior employee below the Department Head, shall contact the first available individual listed below, in the order listed below, to report the Emergency and describe the nature, extent, and expense of the Emergency purchasing required, and obtain a declaration of Emergency:

(a) City Council.

(b) City Manager.

(c) Director of Purchasing.

(2) Written reports.

(a) Immediate Emergency.

[1] As soon as possible, but not later than five working days, the Department Head will submit a full written report to the Director of Purchasing, giving the following information:

[a] Department.

[b] Details of the Emergency.

[c] Why written approval could not be obtained and why standard purchase procedures could not be followed.

[d] Cost.

[e] Vendor(s).

[f] Department Head signature.

[2] At all times, standard purchase procedures shall be followed as nearly as possible in order to establish full record of the purchase. Wherever possible, prior permission shall be sought from the Director of Purchasing.

(b) Non-immediate Emergency.

[1] The Department Head will submit a written request to the Director of Purchasing, giving the following minimum information:

[a] Date.

[b] Department.

[c] Description of the Emergency and why standard purchase procedures cannot be followed.

[d] Estimated cost.

[e] Preferred Vendor(s).

[f] Department Head signature.

[2] The Director of Purchasing will review the request and, if time permits, follow normal procedures as provided in this chapter. If normal procedures cannot be followed, the Director of Purchasing may authorize the purchase.

§ 70-7. Special purchases.

A. Professional services purchases.

(1) Scope. Services provided by physicians, auditors, attorneys, architects, engineers, consultants or other individuals or organizations possessing a high degree of technical skill are considered to be professional services, and are generally subject to the standard competitive bidding procedures of this chapter.

(2) Selection. Selection will be made in accordance with criteria set forth in the Request for Proposal or with other criteria deemed appropriate by the City Council.

B. Construction purchases. Construction purchases shall include capital improvement projects where the cost exceeds $15,000 for construction or reconstruction, in whole or in part, of City-owned properties or facilities. The requesting Department Head shall be responsible for providing a requisition and written explanation of the necessity for the construction. The requisition will then be processed under the appropriate provisions of this chapter.

C. Sole source purchases. This subsection is established for the purchase of supplies, services, maintenance or construction when competitive Sealed Bidding or Proposals cannot be used in awarding a contract because there is only one known available source for the subject of the contract. In that case, the Director of Purchasing may Award a contract by noncompetitive negotiation in accordance with other applicable provisions of this chapter. The Director of Purchasing shall maintain sufficient records detailing the goods and services procured under a sole source purchase and the justification for same. In so doing, the Director of Purchasing may consider issues of operational, system, hardware, and/or software compatibility. Any department or agency seeking approval of a sole source procurement shall submit written documentation to the Director of Purchasing stating the grounds for the sole source request. Such documentation shall include a statement of the specific efforts made in determining or identifying sources for the material or service and an explanation of the need for the procurement. A written determination by the Director of Purchasing of the need for a sole source procurement shall remain in the City's contract files.

D. Service and repair contracts. The nature of on-going and/or "on-call" service and repair contracts makes it very impractical to solicit prices by Invitation for Bids. Therefore, the Director of Purchasing may request Proposals rather than follow the formal Sealed Bid process, although every effort should be made to follow the other appropriate provisions of this chapter. The Director of Purchasing may consider ongoing Vendor relationships in the selection process, as well as other appropriate criteria to justify the final selection.

E. Services set by law. Services for which the rate or price is fixed by a public authority authorized by law to fix rates or prices shall be purchased without competitive Bidding.

F. Lease purchases.

(1) Real property. Because of the nature of limited availability of real property, leases for real property shall be made through direct negotiation by the Director of Purchasing and are not otherwise subject to the provisions of this chapter. All leases for real property must be approved by the City Council.

(2) Personal property. Personal property may be acquired through lease-purchase agreements. However, this subsection in no way is intended to abridge the purchasing regulations set forth in this chapter.

(3) Purchase options. A purchase option in a lease, excluding a lease for real property, may be exercised only if the lease containing the purchase option was Awarded under competitive Bidding procedures or the lease supply or facility is the only supply or facility that can meet the City's requirements.

§ 70-8. Preparation and approval of additional regulatory procedures.

The Director of Purchasing will prepare additional policies or regulations to further amplify the provisions of this chapter and submit them to the City Council for approval by resolution. Approved regulations and other explanatory or procedural material shall be included in the purchasing manual.

§ 70-9. Purchasing Cards.

A. The Director of Purchasing, upon approval of the City Council, may establish or continue a plan or program for the use of Purchasing Cards to facilitate the purchase of goods and services by authorized individuals on behalf of the City.

B. Any Purchasing Card plan or program shall provide for:

(1) The specific positions or categories of positions which may utilize Purchasing Cards.

(2) The spending limits for Purchasing Cards by categories or positions.

(3) Restrictions on the nature or type of purchases which may be made, restrictions as to particular Vendors or categories of Vendors from whom goods or services may be purchased, and other such restrictions as the Director of Purchasing shall determine.

(4) Provisions for the periodic review and assessment of Purchasing Card performance including any required or recommended auditing standards or processes.

(5) Other criteria as may be from time to time determined by the Director of Purchasing or required by the City Council.

C. In no event shall the Purchasing Card plan or program or the use of Purchasing Cards be used to circumvent the spending limits and other restrictions contained in this chapter.

D. The Director of Purchasing may provide for the selection of the Purchasing Card provider by competitive Bid, request for qualifications, negotiated contract, or other means upon the approval of the City Council.

§ 70-10. Debarment process.

A. Any City employee may propose that a Vendor be debarred from doing business with the City based upon the poor quality of goods or services provided, the timeliness of providing such goods or services, the breach of any warranty or contract term or condition relating to the supplying of such goods or services, or any other matter or reason deemed sufficient by the employee to warrant such action.

B. The employee shall refer such proposal to the employee's Department Head, who shall review the allegation, claims, circumstances, and documentation prepared or provided by the employee and determine whether to forward such proposal to the Director of Purchasing.

C. If the Department Head shall determine that the proposal should be considered further, the Department Head shall forward the proposal and all pertinent documentation to the Director of Purchasing, who shall review the material with the Department Head and, in the Director of Purchasing's discretion, the employee and or others deemed appropriate, and determine whether the matter should be further pursued.

D. If the Director of Purchasing shall determine that the matter should be further pursued, the Director of Purchasing shall notify the Vendor by first class mail, postage prepaid, that there has been a proposal to debar the Vendor from doing business with the City, and provide the Vendor an opportunity to be heard (a "hearing") by the Director of Purchasing and to address the facts and circumstances regarding the matter.

E. Any hearing held pursuant hereto shall be informal, shall not be subject to formal rules of evidence or procedure, and shall provide the Vendor an opportunity to review any written material regarding the matter. Witnesses may be called at the discretion of the Director of Purchasing. A Vendor may submit a written statement, summary, or other document in support of the Vendor's position in the matter.

F. The Director of Purchasing shall determine the weight and credibility to be given any documentation, evidence, and testimony submitted in the matter.

G. The Director of Purchasing shall render a decision promptly and, unless delayed for good cause, within 30 days after the hearing.

H. The failure of a Vendor to appear at the hearing shall not prohibit the Director of Purchasing from issuing a decision in the matter.

I. A Vendor may be debarred for a period not to exceed five years from the date the Director of Purchasing renders a decision; provided, however, that to be permitted to bid on, supply, or perform, any future projects, goods, or services to be provided the City, the debarred Vendor must submit evidence by way of references as to quality of Vendor's current quality and performance levels.

§ 70-11. Conforming changes.

Whenever in the Pocomoke City Code, or in any rule or regulation promulgated thereunder or pursuant thereto, reference is made to a purchasing officer or similar position, such reference shall be deemed to be

to the "Director of Purchasing" as if the same had been originally placed or substituted therefore in such provision.

SECTION 3. **BE IT FURTHER ENACTED** by the City Council of Pocomoke City that this Act shall take effect on the ____ day of _____, 2015.

PASSED this _____ day of _____, 2015.

ATTEST:

CITY COUNCIL OF POCOMOKE CITY

_____
Carol Sullivan, City Clerk

_____
George Tasker

_____
Esther Troast

_____
Diane Downing

_____
Dale Trotter

_____
Brian Hirshman

Approved: _____
Bruce A. Morrison, Mayor

All material in this ordinance is new material. Amendments to this ordinance prior to enactment will be show in ***BOLD ALL CAPS ITALICS*** for additions, and ~~strikethrough~~ for deletions.

Dear Event Cordinator

There is a person that Works for Pocomoke City that Has blessed my Family. Its your Santa Claus the only Name I could get from hospital staff was Billy he turned my little girls world around In the childrens Ward r see my little girl has cancer he brought presents but gave her the doll she wanted how did he Know this we are still wondering

I understand he goes to Baltimore and surrounding Areas with Mrs Claus also I dropped this off at your door because she got flowonts Va beach and we drove past Pocomoke and Wanted City Hall to Know that this man really loves his Job as Santa

He found out about my daughter and excused Himself for 15 mins or so my husband followed and said he got really upset but we did not confront him because he had tears in his eyes when he passed by us.

After a little bit he came back the Kids were really surprised. He deserves alot of credit but do to his wishes I thought we would be true to his request and secret. If you could please let Mayor & Council about our Santa. He will be in Our Hearts forever Thank You so much

CITY OF POCOMOKE
BOARD OF ELECTIONS SUPERVISORS
JANUARY 4, 2016

Below is the list of members that would like to stay on the Board. We have two vacancies.

John Haynie
216 Walnut Street
Pocomoke City, MD 21851
410-957-6044
443-783-1793 (C)

District 3

District 1

Sylvia Fletcher
614 Clarke Ave.
Pocomoke City, MD 21851
410-957-2041
443-944-7616 (c)

District 3

Grace H. Holland
114 8th Street
Pocomoke City, MD 21851
410-957-0061
443-366-5462 (C)

District 4

District 2

Carol L. Sullivan
City Clerk
City of Pocomoke
P O Box 29
Pocomoke City, MD 21851
410-957-1333

CHARTER AMENDMENT RESOLUTION NO. 490

A RESOLUTION TO AMEND THE CHARTER OF POCOMOKE CITY, MARYLAND BY ADDING AND DELETING LANGUAGE TO SECTION C-36 CONCERNING THE CONDUCT OF ELECTIONS

WHEREAS, the Municipal Corporation Charter of Pocomoke City, Maryland, § C-36 sets the rules and procedure the conduct of elections; and

WHEREAS, the current Charter provisions do not provide for write-in ballots; and

WHEREAS, the Mayor and Council of Pocomoke City have concluded that it is appropriate for them to amend § 36 of the Charter to allow for write-in ballots in all municipal elections and to delete, in furtherance thereof, language in § 36 of the Charter that provides for cancellation of an election for an office where only one candidate has filed for that particular office; and

WHEREAS, the Mayor and Council have determined that these proposed changes are for the peace, order, and benefit of Pocomoke City and its citizens;

1. **NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of Pocomoke City, by virtue of the authority granted in Article XI-E of the Constitution of Maryland, that Section C-36 of the Municipal Charter of Pocomoke City, be amended to read as follows:*:

C-36. Conduct of Elections.*

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 7:00 a.m. to 7:00 p.m. on election days or for longer hours if the Council requires it. **[[**In the event that there is no contest for any of the offices for which an election shall be proper, the Board of Supervisors of Elections are authorized and directed to cancel the election with respect to said office or offices after giving public notice thereof by publication for two successive weeks in a newspaper or newspapers having general circulation in the City, and to certify as elected the candidate or candidates therefor who have filed a valid certificate of nomination pursuant to Section C-34 of the Charter.**]]** *The Board of Supervisors of Elections , in providing for suitable ballot boxes and ballots and/or voting machines, shall provide for write-in balloting and shall ensure that ballots and/or voting machines shall allow for write-in ballots while protecting the confidentiality of voters.*

* *Italicized print indicates material added to existing law.* Deleted material from the existing Charter is indicated by bold double bracketed **[[ ]]** language.

2. **AND BE IT FURTHER RESOLVED THAT**

In accordance with § 4-304 of the Local Government Article of the Annotated Code of

Maryland, the City Manager shall:

a. Post a complete and exact copy of this Charter Amendment at the City Hall Office, for at least forty (40) days after the passage of this Resolution; and

b. Publishing a fair summary of this Resolution once per week for four (4) weeks in a newspaper of general circulation beginning immediately after the passage of this resolution.

3. AND BE IT FURTHER RESOLVED THAT

This Resolution shall become effective fifty (50) days after passage, in accordance with § 4-304 of the Local Government Article of the Annotated Code of Maryland.

This Resolution was introduced and read at a meeting of the Mayor and Council of Pocomoke City held on the 4th day of January, 2016, and passed for Second Reading.

The Resolution was finally passed and signed and approved by the Mayor and Council of Pocomoke City on the 18th day of January, 2016.

Attest:

THE MAYOR AND COUNCIL OF
POCOMOKE CITY, MARYLAND

_____
Carol L. Sullivan, City Clerk

_____
Bruce Morrison, Mayor

_____
George Tasker, First Vice-President

Publish: _____
_____
_____
_____